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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

PAUL G. SHEARER)	
)	
Plaintiff,)	No. 3:03-cv-00263-JKS
)	(CONSOLIDATED)
V.)	
)	
UNITED STATES OF AMERICA,)	
P. LYNN SCARLETT, Acting)	RESPONSE OF THE UNITED STATES
Secretary of the)	TO PLAINTIFF'S MOTION FOR
Interior, the DEPARTMENT OF)	ENLARGEMENT OF TIME
THE INTERIOR, the NATIONAL)	
PARK SERVICE.)	
)	
Defendants.)	
)	

Paul G. Shearer has moved for an enlargement of time to October 9, 2006, in which to file a reply to the Opposition of the United States to Plaintiff Shearer's Motion to Strike (Docket Entry No. 90). The underlying motion (Shearer's motion to strike, Docket Entry No. 88) to which that opposition was

directed was denied by Order (Docket Entry No. 91) filed August 8, 2006. Shearer's motion for enlargement of time was, therefore, moot when filed and should be denied.

Shearer also moves for an enlargement of time to October 9, 2006, in which to file a response to the Motion of the United States for Partial Summary Judgment - Parcels 3, 14, 15, and 20 (Docket Entry No. 84). Shearer's response to that motion is now due to be filed by August 21, 2006. Order (Docket Entry No. 91). While the United States questions that all of this additional time is needed, given Shearer's pro se status, the United States has no objection to the requested enlargement of time until October 9, 2006. The United States may, however, oppose and further requests for enlargements of time for this purpose.

The United States objects to misrepresentations made by Shearer in his motion. One, he represents that the United States has refused to produce documents requested in his written discovery requests. The United States in its responses dated June 16, 2006, stated that it would produce these documents for Mr. Shearer's examination and appropriate arrangements for coping. Because Shearer's documents requests were voluminous and required an extensive search of records held by the National Park Service in Alaska, the United States has in accordance with Fed. R. Civ. P. 34(b) identified the records containing materials sought by Shearer and informed Shearer that it will produce them for Shearer's examination as they are kept in the ordinary course of business in Anchorage, Alaska. A similar offer was made with respect to records of the Bureau of Land

Management. Defendants' Responses to Plaintiff Paul G. Shearer's First Set of Interrogatories, First Request for Production and First Requests for Admissions to United States of America dated June 16, 2006, at 8-9.^{1/}

However, consistent with their obligations under to Fed. R. Civ. P. 34(b) defendants will produce during regular business hours and on a date or dates mutually agreeable to the parties all documents for which identification is sought held by the National Park Service, at the offices of the National Park Service, Alaska Region, 240 West 5th Avenue, Anchorage, Alaska 99501, in the manner in which these documents are kept in the usual course of business, except for the documents listed in Exhibit 1 hereto which are documents subject to the attorney-client communication and attorney work product privileges. To the extent information is sought with respect to information known to the Bureau of Land Management that material is available to plaintiff Shearer in the Bureau of Land Management, Public Information Center (Public Room), Federal Building and U.S. Courthouse, Room 148, 222 West 7th Avenue, Anchorage, Alaska 99513, during the normal business hours of 8:00 AM to 3:45 PM, Monday through Fridays, holidays excepted, and may be inspected and arrangements made for any copies may be made with that office.

Contrary to the impression Shearer would leave, the United States has never agreed that it would copy and exchange documents at the expense of the United States all documents requested by Shearer. The United States has done so with respect to many documents, Joint Status Report (Docket Entry No. 10) filed September 16, 2004, at 2, and may well do so in the future. That is largely dependent on the volume of material, and the staffing and equipment available to the relevant agency

^{1/} Excerpts attached as Exhibit 1 hereto.

office. As the United States stated in response to Shearer's discovery:

Defendants duty under the Federal Rules of Civil Procedure is (1) to state whether the requested materials will be produced, and (2) to make those materials available to plaintiff Shearer for his inspection and copying. Fed. R. Civ. P. 34. Any copying, however, is at the requestor's expenses. There is no duty on the defendants to actually copy of materials and deliver them to plaintiff Shearer. That may be done as a matter of courtesy or convenience, but is not required. However, to the extent that United States does not find it to be unduly burdensome, the United States generally expects it will elect to provide copies to Shearer.

Id. at 18-19.^{2/}

The United States also disputes that any of the documents requested by Shearer and held by the United States will aid at all in his response to the Motion of the United States for Partial Summary Judgment - Parcels 3, 14, 15, and 20 (Docket Entry No. 84). That motion is based on facts shown in Shearer's responses to discovery and documents produced or identified by Shearer.

Dated this 10th day of August, 2006.

s/ Dean K. Dunsmore
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^{2/} The United States also objected to request that it produce the documents in Lake Oswego, Oregon. *Id.* at 19.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of August, 2006, a copy of the foregoing Response of the United States to Plaintiff's Motion for Enlargement of Time together with a proposed Order and accompanying Exhibit were served by placing said copy in a postage prepaid envelope, addressed to that person at the place and address stated below, and by depositing said envelope and contents in the United States mail at Anchorage, Alaska.

Paul G. Shearer
Kathryn A. McCready
1532 Meadows Drive
Lake Oswego, Oregon 97034

s/ Dean K. Dunsmore
Dean K. Dunsmore